

the conference. Hopefully, something will come out of that.

Did the Senate pass a prescription drug bill? No. Was it marked up in the Finance Committee? No. Did we have a markup? Did Members on the Finance Committee, some of whom have experience and expertise on prescription drugs and Medicare—every major Medicare expansion has passed through the Finance Committee in a bipartisan vote. We did not have a markup this year. We did not even have a chance to offer amendments. Yet we spent 2, 3, 4 weeks on the floor trying to mark up something on the floor with no result, with no prescription drug benefit being offered. The House was able to pass it. We were not.

The same thing is true for the Medicare give-back bill. The House was able to do that, in conjunction with the prescription drugs. Some are saying let's put together a give-back bill and run that through.

We are going to give providers, hospitals, and doctors more money, but we are not going to give prescription drugs to seniors who really need them, who do not have them, or who are maybe low-income? I am not sure that is very fair.

The Senate is flat not working.

In the Finance Committee last week, we are going to have a small business bill. Two or three Senators put together a bill, \$16 billion. There are some tax increases. There was no consensus whatsoever in doing it, except maybe to help somebody politically, but it was not a question of, is this really going to stimulate small business?

Most people realize it is a stalking horse for a person to offer a minimum wage increase which really would hurt small business.

I look at the number of judges, and we have confirmed 78 judges. Some say that is great. In President Bush's first 2 years, 78 judges have been confirmed, which is 61 percent of the judges that he has nominated. Maybe that sounds pretty good, but in looking at President Clinton, he got 129 judges in his first 2 years. He got 90 percent of his judges; President Bush has 61 percent. President Bush 1 got 71 judges. That was 93 percent of the judges he nominated. President Reagan got 89 judges, which was 98 percent of the judges he nominated in his first 2 years, but President Bush only has 61 percent.

When it comes to circuit court judges, the President only has 14 of 32. He has 43 percent of his circuit court judges confirmed. For whatever reason, it seems as if the majority, the Democrats on the Judiciary Committee, do not want circuit court judges to be appointed by President Bush, so they are holding up several outstanding, well-qualified nominees, for ages.

Miguel Estrada is finally going to get a hearing on Thursday. He was nominated a year ago May. He has argued 15 cases before the Supreme Court. He has outstanding qualifications, graduated

the top of his class from Columbia and Harvard, was an assistant U.S. attorney, and an assistant solicitor. He finally gets to have a hearing.

Then there is John Roberts who was nominated a year ago May. He has argued 35 cases before the Supreme Court, and he is yet to get a hearing, probably will not get a hearing this year. What is fair about that?

When people are patting themselves on the back because we have confirmed 78 judges and they are saying that is a lot, well, not when Bill Clinton got 90 percent and President Bush gets 61 percent; not when the current President Bush gets 43 percent of his circuit court judges and President Clinton got 86 percent. President Bush 1 and President Reagan both got 95 percent of their circuit court judges.

All of a sudden, when it comes to circuit court judges, we are just going to go slow on those; they are going to have to wait a year and a half to get a hearing, if they get a hearing. I do not think that is fair.

If we add together the fact that we have not done a budget, we have not done appropriations bills, we have not been confirming the number of judges that we traditionally have for the previous three Presidents, when we have not done a prescription drug bill, when we have not marked up an energy bill through the committee so it is stuck in conference, this Congress, this Senate, has not been working.

For people to say it is the President's fault or it is the House's fault, I disagree. The House has been pretty productive in their legislative efforts. They passed a prescription drug bill. They passed a budget. They have passed more appropriations bills than we have, and they would have passed more had we passed a budget. If this Senate would have passed a budget—which, incidentally, 60 votes are not needed to pass a budget. Fifty-one votes are needed to pass a budget. If this Senate would have passed a budget, these appropriations bills could have gone forward.

To cast aspersions blaming the House or the President for not getting the work done, the blame belongs right here. The Senate has not done its work. We have not passed a budget. We have not passed appropriations bills. Next Monday is the end of the fiscal year. Shame on us. This is the first year I have been in the Senate that we have not gotten our work even close to being done. It is not as though the bills are stuck in conference and we have not resolved the differences. We have not gotten the bills out of the Senate, and that is really not very acceptable.

The Senate needs to work. We need to do our work. We have not done our work, certainly this past year.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. CANTWELL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. REID. Madam President, we have a number of Members on the minority side who wish to speak. The Senator from New Hampshire has been waiting for quite some time. He actually wants to offer an amendment on this bill. With the Gramm amendment pending, we would rather he didn't do that at this time. It is my understanding Senator DEWINE wishes to speak as in morning business.

Mr. DEWINE. Actually, it is on the bill.

Mr. REID. On the bill? You are not planning to offer an amendment or anything at this stage?

Mr. DEWINE. No, I am not offering an amendment.

Mr. REID. I see that the floor staff has returned. Could we have the ability to enter into an agreement at this stage?

Mr. GREGG. I suggest that I speak for 10 minutes with the understanding that no amendment be offered, and the Senator from Ohio be allowed to speak for 10 minutes with the understanding that no amendment will be offered.

Mr. REID. It is my understanding the Senator wishes more than 10 minutes.

Mr. GREGG. Twenty minutes?

Mr. DEWINE. Fifteen.

Mr. REID. Madam President, I ask unanimous consent that—we don't have the agreement yet worked out—the Senator from New Hampshire be recognized for up to 10 minutes to speak as in morning business and that the Senator from Ohio—it doesn't matter, you can speak on the bill if you would rather. We are on the bill, so the Senator from New Hampshire will be allowed to speak for up to 10 minutes on the bill, and then the Senator from Ohio will be allowed to speak for up to 15 minutes on the bill. There would be no amendments offered by the two Senators, and following the statement of the Senator from Ohio, the Senator from Nevada would be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOMELAND SECURITY ACT OF 2002—Continued

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Madam President, I thank the leader for his courtesy in orchestrating this so I can speak briefly. I hope to offer an amendment, and I